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3 HIF325.170

4 ``H.R. 2012, A BILL TO IMPROVE THE INTEGRITY AND SAFETY OF

5 INTERSTATE HORSERACING, AND FOR OTHER PURPOSES''

6 THURSDAY, NOVEMBER 21, 2013

7 House of Representatives,

8 Subcommittee on Commerce, Manufacturing and Trade

9 Committee on Energy and Commerce

10 Washington, D.C.

11 The Subcommittee met, pursuant to call, at 10:05 a.m.,  
12 in Room 2322 of the Rayburn House Office Building, Hon. Lee  
13 Terry [Chairman of the Subcommittee] presiding.

14 Members present: Representatives Terry, Lance,  
15 Blackburn, Harper, Guthrie, Bilirakis, Johnson, Sarbanes,  
16 McNerney, Yarmuth, Barrow, Christensen, and Waxman (ex

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17 officio).

18 Also present: Representative Pitts.

19 Staff present: Kirby Howard, Legislative Clerk; Brian

20 McCullough, Senior Professional Staff Member, CMT; Gib

21 Mullan, Chief Counsel, CMT; Andrew Powaleny, Deputy Press

22 Secretary; Heidi Stirrup, Health Policy Coordinator; Michelle

23 Ash, Democratic Chief Counsel; and William Cannady Wallace,

24 Democratic Professional Staff.

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25           Mr. {Terry.} We are going to start our hearing. Some  
26 of you have testified before or been around our testimony, so  
27 you have a pretty good handle on how it works. I will have  
28 an opening statement, and Mr. Sarbanes will have. We will  
29 have statements that should go about 10 minutes per side.  
30 And then we are going to go right into your testimony. And  
31 we will go for Mr. Overton to my right. So let us start the  
32 clock.

33           Good morning and thank you all for joining us on our  
34 second in a series of horse related hearings. And as I  
35 mentioned last week, I have very fond memories of working at  
36 the racetrack in Omaha, Nebraska. And even when I was  
37 finished working there, it was--I just couldn't get away from  
38 it. There was--there is just such a romance with those  
39 thoroughbreds. And just--I loved sitting--standing on the  
40 rail of the stretch. And as they come around that corner and  
41 you can just feel the ground shaking from their power, and  
42 just majestic animals. So I have a real love for our race  
43 horsing industry and those horses.

44           And so that is why we are here today is to talk about

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45 the future of thoroughbred horseracing and how the horses  
46 have been treated, and some of the allegations that have been  
47 made through what I would say community based organizations,  
48 but also legitimate news organizations. So the perception is  
49 that the doping or drug use for the horses has become  
50 pervasive. In fact, in a pool done by a jockey club that has  
51 been quoted many times by my colleagues, and this is the  
52 major handicappers and betters, will actually take into  
53 account the witch barns, trainers, have a reputation for  
54 using--masking drugs and eliminate them from their  
55 handicapping, and maybe even some tracks that have a  
56 reputation versus other tracks for how tough they are in  
57 enforcing the no-drugs policy.

58 Now, these types of unsavory practices bring two major  
59 concerns to the forefront. Number one is the safety of the  
60 jockeys. And there has been one study that showed that 24  
61 horses a week have some incident on the track while they are  
62 racing. While the animal itself we should care for, the most  
63 important is the human being on top of that. It is a  
64 dangerous sport. We know when a horse is racing, and it  
65 should not be due to injury that both the animal and the

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66 human being, that is--are exposed to those dangers. And I am  
67 deeply concerned about the implications to the fairness of  
68 the horse racing and the pervasive, or perceived pervasive,  
69 use of PEDs may have.

70 In 1978 when Congress passed the Interstate Horse Racing  
71 Act, one of the issues Congress sought to address was a  
72 responsible atmosphere for off track betting so that people  
73 could place wagers on horses with a degree of certainty that  
74 this was a regulated affair. To put it bluntly, if PEDs are  
75 being used, that is cheating. And you are cheating the  
76 betters to the point where the big handicappers won't bet on  
77 races where they think horses may have been doped. So it is  
78 not acceptable--and I complement Joe Pitts and Jan Schakowsky  
79 for this legislation.

80 [The prepared statement of Mr. Terry follows:]

81 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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82           Mr. {Terry.} And at this time, I have a minute 16 there  
83 to yield to somebody. Mr. Lance?

84           Mr. {Lance.} Thank you very much, Mr. Chairman, and  
85 good morning to our distinguished panel and everyone in the  
86 audience. The thoroughbred industry has had a significant  
87 cultural and economic impact here in the United States. The  
88 industry supports over one million permanent jobs and has an  
89 estimated economic impact of over \$100 billion. Beyond that,  
90 the thoroughbred industry is a part of American culture.  
91 Millions attend and watch events such as the Kentucky Derby  
92 and the Preakness Stakes each year, and thousands attend  
93 local races in their home communities. And New Jersey races  
94 at the Meadowlands and at Monmouth Park generate significant  
95 local interests and economic impact.

96           However, in recent years, the thoroughbred industry has  
97 been plagued by the usage of performance enhancing drugs.  
98 This practice not only de-legitimizes the sport but also  
99 endangers both the horses that participate in these contests  
100 and the jockeys who are at risk of serious paralysis or death  
101 should a horse suffer an injury.

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102           Doping in the thoroughbred industry is a concern for  
103 every industry stakeholder from the small time better who has  
104 had to take into account who is doping, what handicapping  
105 choices, to the owners who want to preserve the credibility  
106 of their industry.

107           I look forward to examining this legislation and hearing  
108 testimony from our diverse and distinguished panel. Thank  
109 you, Mr. Chairman.

110           [The prepared statement of Mr. Lance follows:]

111           \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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112           Mr. {Terry.} Thank you, Mr. Vice Chairman. And now the  
113 ranking--Acting Ranking Member, Mr. Sarbanes, you are  
114 recognized for your 5 minutes.

115           Mr. {Sarbanes.} Thank you, Mr. Chairman. I won't take  
116 the full 5 minutes. I appreciate you convening this hearing  
117 so we can examine this important topic and the proposed  
118 legislation to address this issue of the use of performance  
119 enhancing drugs in the horse racing industry.

120           As has been mentioned by the other members so far, this  
121 is a very important industry to the country, generating  
122 almost 150,000 jobs. It is a \$10.6 billion industry  
123 nationally. Horse racing is important in my state. My  
124 district is right across the street--the boundary of it--  
125 right across the street from the Pimlico race track where the  
126 Preakness is held. I mention that only because everybody who  
127 goes to the race parks in the neighborhood of my  
128 constituents.

129           Mr. {Terry.} Do you get to charge 5 bucks to park in  
130 front of your house?

131           Mr. {Sarbanes.} They charge--yeah, they charge more



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132 than that, actually, for people to park on their front lawns.

133 In addition, the third district in Maryland is home to  
134 one of the largest memberships of the humane society in the  
135 country, so I am very focused as well on the welfare of the  
136 horses. So this is an important topic of discussion. You do  
137 these things--to exam these things, you make sure that a  
138 sport like this is clean because it is in the long-term  
139 interest of the industry in maintaining the vibrancy of the  
140 industry in the eyes of the public and those who participate.  
141 So it is an important hearing.

142 I know we are trying to move quickly to the witnesses.  
143 I am prepared to yield time to any other members here if they  
144 would take it. Otherwise, I would be prepared to yield back.

145 [The prepared statement of Mr. Sarbanes follows:]

146 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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|

147           Mr. {Terry.} Thank you. Mr. Pitts, you are recognized  
148 for 2-1/2 minutes.

149           Mr. {Pitts.} Thank you, Mr. Chairman, for the  
150 recognition, for the privilege to join the important hearing  
151 today on H.R. 2012. I would like to augment my statement  
152 today by showing a short video clip, which sets the tone for  
153 why the Congress must act to protect jockeys, horses and the  
154 public for the scourge of drugs in horse racing. Try to get  
155 sound.

156           [Video.]

157           Mr. {Pitts.} You can see on the TV screen a display of  
158 one horse, Coronado Heights, a 4-year-old thoroughbred that  
159 received a diagnosis of early degenerative joint disease but  
160 was raced anyway, broke down, was euthanized on the track.  
161 And I have--at your seat, you can see what was administered  
162 to him 1 week before he broke down, 17 syringes. So despite  
163 promises and assurances--statement--groups have been unable  
164 to come together to develop uniform rules. The fact remains  
165 that there is no single entity which has the authority to  
166 impose uniform rules on racing commissions, tracks, trainers

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167 and others. So I urge members to consider H.R. 2012, a sound  
168 national framework to protect horses, riders and the public.  
169 We look forward to hearing the witnesses. Thank you, Mr.  
170 Chairman.

171 [The prepared statement of Mr. Pitts follows:]

172 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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173           Mr. {Terry.} Gentleman from Florida, do you wish to  
174 make a statement?

175           Mr. {Bilirakis.} Thank you, Mr. Chairman. I appreciate  
176 it. Thank you very much for holding this very important  
177 hearing.

178           First, I want to echo those views that no one wants to  
179 see animals mistreated or harmed in any way. No horse should  
180 be intentionally neglected, mistreated or subjected to  
181 unnecessary trauma. Additionally, those that participate in  
182 interstate pari-mutuel activities should be assured that they  
183 are participating on a fair and transparent level that  
184 protects the integrity of the sport.

185           I do, however, wish to closely examine the most  
186 appropriate manners in which to ensure this. As a general  
187 guiding principle, all manners of compliance assistance and  
188 incentives with states and industries should be exhausted  
189 before further empowering agencies. This committee should  
190 applaud the growing efforts to adopt uniform national reforms  
191 on the state level. Tampa Bay Downs, one of the country's  
192 oldest racetracks and the only thoroughbred racetrack on the

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193 west coast of Florida, is located in my congressional  
194 district, and it also supports this approach. And it is one  
195 of the more than 50 racetracks across the country to endorse  
196 these reforms.

197 Additionally, the Florida Division of Pari-Mutuel  
198 Wagering is hosting a workshop tomorrow to receive public  
199 input on its rules regarding drugs and veterinarian  
200 procedures and enforcement.

201 Thank you again, Mr. Terry, and I look forward to  
202 hearing from the very--

203 Mr. {Terry.} Thank you.

204 Mr. {Bilirakis.} Thank you.

205 [The prepared statement of Mr. Bilirakis follows:]

206 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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207           Mr. {Terry.} We have 1 minute. Does the Vice Chair of  
208 the full committee wish an opening statement?

209           Mrs. {Blackburn.} I would just simply welcome all of  
210 our witnesses. We are delighted that you are here. And  
211 yield back my time.

212           [The prepared statement of Mrs. Blackburn follows:]

213   \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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214           Mr. {Terry.} Thank you. And that concludes all of the  
215 opening statements. Donna, do you have--

216           Dr. {Christensen.} If I could--

217           Mr. {Terry.} Yes.

218           Dr. {Christensen.} This will take--

219           Mr. {Terry.} You are--

220           Dr. {Christensen.} Thank you. Thank you, Mr. Chairman,  
221 and Ranking Member. I grew up in horse racing. My father  
222 was--had race horses. It is still one of my favorite sports.  
223 But I grew up in a time when these kinds of issues with  
224 drugging horses didn't happen. And I am just glad that we  
225 are having this hearing today. And I thank the witnesses and  
226 welcome them.

227           [The prepared statement of Dr. Christensen follows:]

228           \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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229           Mr. {Terry.} Thank you very much. Now, that concludes  
230 our opening statements. A fun fact before we introduce our  
231 guests, our witnesses, that chariot racing was the first  
232 Olympic sport in 1680 B.C. Horseracing has been around a  
233 long time, and we want to keep it that way.

234           The witnesses? Henry, do you want to make a statement?

235           Okay. I want to introduce all of our witnesses. As I  
236 mentioned, we will start with Mr. Overton, who is Chairman  
237 SkyLearn, LLC, and former chairman of the Minnesota Racing  
238 Commission; Phil Hanrahan, Executive Officer, National  
239 Horsemen's Benevolent and Protective Association; Dr.  
240 Lawrence Soma, VMD, Professor Emeritus of Anesthesia and  
241 Clinical Pharmacology at University of Pennsylvania School of  
242 Veterinary Medicine. Good thing it wasn't Penn State. We  
243 play them Saturday. I would have had to grill you much more.  
244 Travis Tygart, CEO, U.S. Anti-Doping Agency; Dr. Sheila  
245 Lyons, DVM, founder and director of American College of  
246 Veterinary Sports Medicine and Rehabilitation; and Wayne  
247 Pacelle, Chief Executive Officer and President Humane Society  
248 of the United States. Thank you all for taking your time to



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249 share your wisdom with us today.

250 Mr. Overton, you will have 5 minutes.

251 Mr. {Waxman.} Mr. Terry?

252 Mr. {Terry.} Yes?

253 Mr. {Waxman.} Before he starts, I just want to welcome

254 all the witnesses. I do have a statement I want to put in

255 the record in support of the effort to stop the inhumane

256 practices relating--

257 Mr. {Terry.} Without objection.

258 [The information follows:]

259 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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260           Mr. {Terry.} So each of you will have 5 minutes. There  
261 is a little sign up here you can glance up to. The 1 minute  
262 mark will be a yellow slash, and that means start wrapping it  
263 up. Five minutes-ish, I will start tapping the gavel to let  
264 you know to wrap it up.

265           Mr. Overton, you are now recognized for 5 minutes.

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266 ^STATEMENTS OF JESSE OVERTON, CHAIRMAN, SKYLEARN, LLC, AND  
267 FORMER CHAIRMAN, MINNESOTA RACING COMMISSION; PHIL HANRAHAN,  
268 CHIEF EXECUTIVE OFFICER, NATIONAL HORSEMEN'S BENEVOLENT AND  
269 PROTECTIVE ASSOCIATION; LAWRENCE SOMA, VMD, PROFESSOR  
270 EMERITUS OF ANESTHESIA AND CLINICAL PHARMACOLOGY, UNIVERSITY  
271 OF PENNSYLVANIA SCHOOL OF VETERINARY MEDICINE; TRAVIS TYGART,  
272 CHIEF EXECUTIVE OFFICER, U.S. ANTI-DOPING AGENCY; SHEILA  
273 LYONS, DVM, FOUNDER AND DIRECTOR, AMERICAN COLLEGE OF  
274 VETERINARY SPORTS MEDICINE AND REHABILITATION; AND WAYNE  
275 PACELLE, CHIEF EXECUTIVE OFFICER AND PRESIDENT, HUMANE  
276 SOCIETY OF THE UNITED STATES

|

277 ^STATEMENT OF JESSE OVERTON

278 } Mr. {Overton.} Thank you very much, Mr. Chairman,  
279 Ranking Member Mr. Sarbanes, and members of the subcommittee.  
280 Thank you for this opportunity to share my thoughts and  
281 experiences regarding the painful truth about drugging of  
282 race horses, the current challenges with medication rules and  
283 the need for H.R. 2012 to reform drug use in U.S. racing.

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284 I was appointed by Governor Tim Pawlenty to a 5-1/2 year  
285 term on the Minnesota Racing Commission, with the last 2-1/2  
286 years of my service during the tenure of Governor Mark  
287 Dayton. While I no longer serve in an official capacity, my  
288 experiences serving on the racing commission makes me a  
289 strong supporter of H.R. 2012.

290 Minnesota, like every racing jurisdiction in North  
291 America, is faced with multiple challenges, not least of  
292 which is the establishment and enforcement of uniform  
293 regulations in racing. Specifically, it was my role as a  
294 racing commissioner to work toward a reduction in the number  
295 of medication violations through better testing and serious  
296 enforcement protocols. During my tenure, the commission  
297 established stricter medication rules and employed a modern  
298 drug testing lab. Trainers, in honest, frequently race their  
299 horses in multiple states. So keeping up with various drug  
300 requirements and withdrawal times is a daunting task. And  
301 with winning as an overarching goal, some trainers race in  
302 states with more lenient medication rules. In fact,  
303 Minnesota's stricter medication and enforcement rules  
304 resulted in some horsemen electing not to return to Minnesota

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305 when we improved our medication testing.

306       It is my strong belief that if integrity is not the  
307 fundamental un-depending of horseracing as both a sport and a  
308 gaming operation, it is destined to failure. Horseracing  
309 involves the government, gaming operators, racetrack owners  
310 and horsemen. Racehorse owners and veterinarians are  
311 supporting players. In my experience, some of the industry's  
312 groups challenge the integrity of the sport. They will say  
313 there are few or no problems either with the use of drugs or  
314 with the enforcement against those who do not comply with the  
315 regulation. This is simply not true. There is an inherent  
316 problem with the model consisting of 38 separate regulatory  
317 entities and many industry interest groups, all believing  
318 that they are in charge. The fact is there is little  
319 coordination among racing commissions, industry groups at the  
320 state and interstate level. And with so many cooks in the  
321 kitchen, there is confusion, conflict and chaos in medication  
322 regulations.

323       This is a perfect environment for those who can't keep  
324 up with the rules or those who chose to improperly or  
325 illegally medicate horses to take advantage of the

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326 disorganization. As a racing commissioner, I will stand by  
327 the length some trainers will go to win races. As you will  
328 hear from other witnesses, there is no drug or compound that  
329 has not been tried in horses from EPO, anti-biotical  
330 steroids, to frogs use and cold preventum. And I promise,  
331 there are chemists right now working up new, illegal,  
332 undetectable substances to give a trainer who wants a  
333 performance advantage, especially if he or she has--have the  
334 fastest horse--does not have the fastest horse.

335 Unless drug testing is conducted uniformly and in the  
336 state of art laboratories, unscrupulous horsemen will  
337 continue to cheat the system for horses and the fans. I have  
338 attended many meetings of racing consortia and regulatory to  
339 find a common regulatory paradigm within which all racing  
340 jurisdictions must comply. But as long as there are 38  
341 separate jurisdictions, this goal is impossible to obtain  
342 despite decades of sincere people's best efforts.

343 While multiple states have adopted racing compacts to  
344 align medication requirements, the fact is the enforcement of  
345 these compacts will vary from state to state as no single  
346 entity has authority to enforce in more than one state. The

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347 approach is varied. The outcome is the same. Unlike other  
348 professional sports like football, baseball, there is a  
349 central authority. No consistency in lab capabilities, no  
350 uniform penalties, no dedicated funding to increase lab  
351 testing, nor conduct research to catch the next magic potion  
352 illegally administered to horses. H.R. 2012 and a new  
353 authority will provide, through the U.S. Anti-Doping Agency,  
354 USADA, would establish a single drug testing body by virtue  
355 of a strong and consistent enforcement regulation. Through  
356 the enactment of H.R. 2012, all racing commissions would work  
357 in cooperation with USADA to strengthen and clean the  
358 competition policies and provide uniform medication testing.

359 Thank you very much, Mr. Chairman, and members of the  
360 subcommittee.

361 [The prepared statement of Mr. Overton follows:]

362 \*\*\*\*\* INSERT 1 \*\*\*\*\*

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363           Mr. {Terry.} Thank you, Mr. Overton. Now, Mr.

364 Hanrahan, you are recognized for 5 minutes.



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365 ^STATEMENT OF PHIL HANRAHAN

366 } Mr. {Hanrahan.} Thank you, Mr. Chairman. I am the CEO  
367 of the National Horsemen's Benevolent and Protective  
368 Association. The NHBPA is the largest organization in the  
369 United States representing owners and trainers in  
370 thoroughbred horseracing. We have approximately 29,000  
371 members in the United States and Canada.

372 Let me start by stating unequivocally the NHBPA's  
373 position on medication. Owners and trainers who cheat by  
374 administering drugs that have no legitimate use in horses in  
375 attempt to influence the outcome of race should, after due  
376 process, be kicked out of horseracing. The use of dermorphin  
377 is doping plain and simple, so too is blood doping, gene  
378 doping and other narcotics.

379 However, let me quickly add, data compiled by state  
380 racing authorities shows conclusively that doping of  
381 thoroughbred horses in the United States is extremely rare.  
382 In the United States, two horses are tested every race.  
383 During the 4 year period from 2009 through 2012, there were

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384 more than 360,000 post-race tests of blood and urine. Only  
385 142 tests--I say again, 142 tests were positive for doping  
386 substances. More than 99.9 percent of all tests showed no  
387 doping substances were present. The NHBPA, however, draws a  
388 clear distinction between illegal doping and lawful  
389 therapeutic medication administered by licensed  
390 veterinarians.

391 The HBPA supports the continued use of Lasix and other  
392 therapeutic medications because they are necessary for the  
393 health and welfare of horses and reduce the risk of injury to  
394 jockeys.

395 Now, turning to H.R. 2012, the NHBPA opposes its  
396 enactment because it attempts to address a problem that does  
397 not exist, and purports to do so by employing USADA which has  
398 neither the experience in horseracing nor the resources to  
399 regulate medication in the horseracing industry. Medication  
400 rules and machinery for their enforcement already exists in  
401 every racing state.

402 News reports claim rampant use of illegal drugs that  
403 state regulators are ignoring. A look at the state  
404 regulatory data shows such claims are not true. Data for the

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405 most recent 4 year period shows more than 99.9 percent of the  
406 hundreds of thousands of post-race tests were negative for  
407 doping. Likewise, more than 99.2 percent of tests were  
408 negative for therapeutic medication remaining in a horse on  
409 race day.

410 Despite this objective evidence demonstrating there is  
411 no widespread misuse in medication in thoroughbred racing,  
412 some industry voices have called for a ban on all medication.  
413 Those who do so labor under the erroneous belief that race  
414 day medication is routinely permitted and that it causes  
415 injuries to horses. That is not true. The only race day  
416 medication allowed in the U.S., with minor exception, is  
417 Lasix. Unfortunately, Lasix, which H.R. 2012 bans, has  
418 become the poster child for those arguing in favor of a ban  
419 on all medication and has obscured scientific and medical  
420 facts about Lasix, including the following.

421 Running hard causes nearly all horses to bleed in their  
422 lungs and can cause instant death on the racetrack. One of  
423 my co-panelists, Dr. Larry Soma, published research  
424 documenting the racetrack deaths of horses due to bleeding in  
425 the lungs. Lasix prevents and lessens bleeding, and is the

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426 only medication that does so. Lasix is not performance  
427 enhancing. It does not make a horse run faster than its God  
428 given natural talent.

429 A landmark 2009 study in South Africa of 167  
430 thoroughbred horses and racetrack conditions conclusively  
431 proved the effectiveness of Lasix in preventing and lessening  
432 the severity of bleeding. It is wrong to claim without any  
433 empirical evidence that fatalities are caused by permissive  
434 drug use. Last year's New York report on racehorse health  
435 and safety noted breakdowns at aqueduct occurred for a  
436 multitude of reasons having little to do with medication.

437 While the NHBPA opposes H.R. 2012, we do recognize the  
438 utility of uniform medication rules. Medication use, post-  
439 race testing thresholds and penalties often vary from state  
440 to state. For that reason, the NHBPA is continuing to work  
441 with the Association of Racing Commissioners International on  
442 drafting uniform model rules. Nine states in the mid-  
443 Atlantic have taken the lead in approved medication--uniform  
444 medication rules. Eleven others are currently considering  
445 adopting those rules. We have high regard for USADA--USADA's  
446 efforts in policing illegal drug use in human sports

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447 competition. But the organization has no experience in  
448 equine veterinary science or the horse industry.

449 In short, H.R. 2012 is not needed. The job is already  
450 being done. Thank you, Mr. Chairman.

451 [The prepared statement of Mr. Hanrahan follows:]

452 \*\*\*\*\* INSERT 2 \*\*\*\*\*

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|

453           Mr. {Terry.} Thank you. Now, Dr. Soma, you are  
454 recognized for 5 minutes.

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|

455 ^STATEMENT OF LAWRENCE SOMA

456 } Dr. {Soma.} Good morning. I would like to review the  
457 progress that has been made in improving equine drug testing  
458 and some changes in the curtailment of use of certain drugs.

459 Prior to 208, only 5 of the 18 U.S. racing laboratories  
460 were accredited through international standards, which are  
461 referred to as ISO-17025. As of June 13, 10 of the 16  
462 laboratories are accredited. The laboratories that are  
463 accredited to these standards meet technical and quality  
464 management requirements. The standards require that  
465 laboratory to implement a quality assurance system aimed at  
466 demonstrating the ability to consistently produce valid test  
467 results starting from proper handling of incoming samples to  
468 reproducibility and accuracy of analytical results.

469 This is not a one-shot deal. Laboratories have to be  
470 reaccredited, and the onsite assessment of a laboratory is  
471 mandatory every two years. So an inspector comes in--goes  
472 through the laboratory and assesses their quality assurance  
473 capabilities.

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474           The committee appointed by the Racing Medication and  
475   Testing Consortium was charged with developing a second  
476   accreditation program for the equine industry. This  
477   committee, which I was a member, developed a laboratory  
478   accreditation requirements and operating standards. The  
479   requirements for this level of accreditation are extensive  
480   and are guided by the requirements outlined by the U.S.  
481   Doping Agency laboratories. The committee basically started  
482   with this handbook and developed guidelines which are used--  
483   can be used in the industry. The laboratory must participate  
484   in an external quality assurance program which requires  
485   analysis of proficiency samples. The laboratory must  
486   successfully identify and confirm and quantify the drug in  
487   blood and urine. The laboratory knows that the samples are  
488   coming but do not know what drug is in the blood or urine  
489   sample. The above requirements are important aspects of the  
490   program that determines if the laboratory has the capability,  
491   personnel and instrumentation required to detect substance of  
492   concern at the concentrations that are mandated by the  
493   industry.

494           The stated goal of this program is to ensure that all



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495 laboratories are operating at the same standard. The first  
496 type of accreditation indicates how well the laboratory is  
497 functioning, their data management. The second state tells  
498 you how the performance of that is, can you find certain  
499 drugs, and can they be confirmed in a reasonable timeframe?

500 National guidelines have also been published for the  
501 withdrawal time for 24 commonly used therapeutic drugs. This  
502 allows for the treatment of horses during training, if they  
503 are properly used. For example, progress has made on--been  
504 made on the drug control front. Anabolic steroids have been  
505 banned from use in North America, and the injections of drugs  
506 into the equine joint has been regulated. As a result of  
507 these regulations, injection of drugs into the joint are--  
508 really cannot be done for up to--before 7 days--the horse has  
509 to be medicated before 7 days before they allow the horse to  
510 run.

511 There is still a number of drugs which are problematic.  
512 One of the problems is certainly that Lasix is still allowed  
513 in the state--in the United States and Canada. Number two,  
514 there are many drugs out there which are difficult to find,  
515 and there is very, very little research in trying to attempt

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516 to find these drugs. Fortunately, the State of Pennsylvania  
517 does provide research funds through our laboratory to look at  
518 peptides, EPO type of drugs, and drugs which are very, very  
519 difficult to find on the current establishment lab. Even if  
520 you have a well--if you have a very good laboratory that can  
521 find hundreds of drugs in a certain--in one screening, there  
522 are still drugs out there which we have not developed a  
523 method for. And these are protein based drugs. These are  
524 small peptides, like the morphine is a small peptides. These  
525 are drugs that are difficult to find. And I am sure there  
526 are many more coming along which the laboratories really need  
527 resources to improve their research capabilities.

528 But many laboratories have improved. Some laboratories  
529 have left because they could not meet these requirements. So  
530 as far as testing is concerned, I think there has been a  
531 great change over the last 5 years in improving this aspect  
532 of racing. Rules and regulation throughout the states is  
533 still a problem. Thank you.

534 [The prepared statement of Dr. Soma follows:]

535 \*\*\*\*\* INSERT 3 \*\*\*\*\*

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|

536           Mr. {Terry.} Thank you. And, Mr. Tygart, you are  
537 recognized. And as I understand, you just flew back from  
538 South Africa. So if you are talking a little slower because  
539 of your jetlag, we will understand.

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|

540 ^STATEMENT OF TRAVIS TYGART

541 } Mr. {Tygart.} Thank you, Mr. Chairman, and members of  
542 the committee. Good morning. My name is Travis Tygart, and  
543 I am the CEO at the United States Anti-Doping Agency. It is  
544 an honor for me to be here representing the USADA Board and  
545 the tens of millions of clean athletes that we serve. It is  
546 also an honor for USADA, a 501(c)(3) not-for-profit  
547 corporation based in Colorado, to play a role as an  
548 independent organization to assist the sport of horseracing  
549 to ensure level playing field, enhance the consumer  
550 confidence in the gaming industry and to sustain a culture of  
551 health for athletes, and hopefully allow for the overall  
552 economic growth for the entire horse industry as we have seen  
553 in the Olympic movement.

554 True sport has been on the idea of honesty, respect,  
555 fairness and an equal opportunity for success under the rule  
556 of law, the very same principles that build the foundation of  
557 every free and democratic society. We firmly believe, as do  
558 our athletes, that the greatest injustice in sport is when

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559 one competitor robs another of their hard work, dedication  
560 and victory because they gained an unfair advantage contrary  
561 to the rules.

562       Accordingly, we welcome and appreciate this committee's  
563 focus on the harms that are caused by performance enhancing  
564 drug use in sport. The issue of drugs in sport and  
565 corruption in sport strikes at the very heart of what role  
566 sport will play in America's future.

567       Bottom line, if we turn a blind eye to fraudulent  
568 conduct, contrary to the rules of competition in track and  
569 field, cycling, football, even horseracing, essentially  
570 saying as long as we win and don't get caught, it is okay,  
571 then we send a very powerful message that it is acceptable,  
572 justifiable, even noble to win by any means necessary,  
573 including dangerous performance enhancing drugs, fraud or  
574 whatever, as long as you win and you don't get caught.

575       And make no mistake, the win at all costs culture is  
576 alive and well and will flourish in every sport, including  
577 horseracing, if we do not take decisive action to stop the  
578 thieves from running wild, and instead truly give hope to  
579 those who compete to win under the rules.

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580           USADA's perspective on the current anti-doping climate  
581 in horseracing comes from living the history of the fight  
582 against doping that has occurred within the international  
583 Olympic movement over the past 13 years. In the late 1990s,  
584 there was a myriad of different anti-doping rules and  
585 regulations across the globe in each jurisdiction in sport.  
586 There was no uniform or harmonized policy for what was  
587 considered a violation, what was tested for, how collections  
588 and chain of custodies procedures applied, what laboratory  
589 standards applied. There were varying sanction links.  
590 Ultimately, this system of self-regulation by the various  
591 states and sports created an unattainable position for sport,  
592 for athletes. And it seriously disrupted the economic  
593 viability of the Olympic Games. Suffice it to say, the  
594 Olympic rings were badly tarnished. And that was bad for  
595 business.

596           In 1999, athletes, governments, sporting world said  
597 enough is enough and came together to solve the problem.  
598 This game changing moment ultimately led to the creation of  
599 the World Anti-Doping Agency, or WADA. And after an open,  
600 transparent consultation process, eventually led to the

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601 passage of the WADA Code and the international standards.  
602 Today, the code and the standards are the uniform policies  
603 that apply equally to all athletes, coaches and trainers  
604 across the globe. They are the substantive anti-doping rules  
605 that we all agreed to and we are bound by. Today, there are  
606 approximately 520 sport organizations and 172 governments  
607 from around the world that have accepted and agreed to abide  
608 by the WADA Code. There is no good reason why this same  
609 effort cannot be done for the horseracing industry in the  
610 United States. And the current legislation allows for it.

611 The first step to curing the problem was passing the  
612 uniform policy. The second equally important measure was to  
613 ensure the uniform and full implementation of the policy.  
614 USADA was open in late 2000 as the organization that handles  
615 this responsibility. It was extremely courageous for the  
616 United States Olympic Committee, the 45 or so national  
617 federations like USA Basketball, USA Swimming, to fully  
618 externalize their efforts to USADA. But they took the stand  
619 because it was clear, the sports themselves could not  
620 simultaneously promote and police themselves.

621 In addition to true independence and transparency, the

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622 WADA code provides a guide to what this legislation would  
623 allow to be addressed effectively in the horseracing  
624 industry. Effective testing, including standardized  
625 selection, collection, chain of custody and transport rules  
626 and practices, a full list of substances and methods that  
627 would capture new designer drugs as you just heard from Dr.  
628 Soma. Implementation of best legal practices and policies,  
629 which must include adequate sanctions to deter doping, and  
630 due process protections for those accused of violations. The  
631 implementation of best scientific standards for laboratory  
632 uniformity and practices, including a robust accreditation  
633 and proficiency testing program, as well as scientific  
634 research for the detection of new substances. Investigative  
635 units and partnerships with government, particularly law  
636 enforcement, to ensure those who illegally manufacture,  
637 traffic and distribute these dangerous drugs who might be  
638 outside of sports jurisdiction are also held accountable.

639 In conclusion, I would like to thank this committee for  
640 its time, its interest on this important, ethical and public  
641 health issue, and for my--inviting me here today to share  
642 USADA's experiences. We look forward to assisting you in any



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643 way possible going forward as you consider this legislation

644 and hopefully restore the faith in this wonderful sport.

645 Thank you.

646 [The prepared statement of Mr. Tygart follows:]

647 \*\*\*\*\* INSERT 4 \*\*\*\*\*

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|

648           Mr. {Terry.} Thank you. And thank you for your  
649 extraordinary efforts to be here today. Dr. Lyons, you are  
650 recognized for 5 minutes.

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|

651 ^STATEMENT OF SHEILA LYONS

652 } Dr. {Lyons.} Thank you, Chairman Terry, Ranking Member  
653 Sarbanes and members of the subcommittee for allowing me to  
654 testify today. My name is Sheila Lyons, and I am a  
655 veterinarian who specializes in equine sports medicine and  
656 physical medicine and rehabilitation. My private  
657 veterinarian consulting practice is both national and  
658 international in scope, which provides me with an overview of  
659 the horseracing industry and the veterinary profession that  
660 includes many distinct jurisdictions. I am the founder of  
661 the American College of Veterinary Sports Medicine and  
662 Rehabilitation, a member of the International Society of  
663 Physical Medicine and Rehabilitation, and a member of the  
664 International Federation of Sports Medicine. I provide  
665 education to veterinary students, veterinarians, physical  
666 therapists, farriers and horsemen across the country and  
667 internationally. My patients have included some of the  
668 world's finest thoroughbred racehorses. But I have regularly  
669 provided veterinary services to horses at every level of the

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670 sport for nearly 30 years.

671 First, do no harm. This well-known creed describes the  
672 most important and fundamental principle of medical ethics.  
673 It is also the principle that is being violated every day by  
674 racetrack veterinarians across this country.

675 First, get this horse to the races has become the  
676 substitute creed for too many racetrack veterinarians. The  
677 pervasive and unethical use of injury masking and performance  
678 enhancing drugs in horseracing in the United States has  
679 created a national health and safety crisis in the industry,  
680 and is destroying the reputation of a once vibrant sport.  
681 This pattern of drug abuse is deemed legal and some might say  
682 encouraged under our current horseracing regulatory system.  
683 The Horseracing Integrity and Safety Act of 2013 holds the  
684 power to reverse this injustice through its mandate of drug  
685 free racing, its designation of a national and fully  
686 independent expert regulatory authority, its requirement that  
687 appropriate penalties be enforced without bias, and this  
688 legislation's clear and unambiguous message to the  
689 horseracing industry, veterinary community and the public  
690 that cheaters will not prosper and drugs may only be

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691 administered under the strict ethical and professional  
692 guidelines known as the veterinarian/client patient  
693 relationship. The veterinarian's role will once again be  
694 based upon the principles of veterinary medical ethics.

695         The veterinarian/client patient relationship seems a  
696 simple term but holds powerful meaning. This legislation's  
697 repeated incorporation of this term in this bill is key to  
698 enacting essential reform in the standard of veterinary care  
699 that all racehorses receive, without regard to their monetary  
700 value or level of racing.

701         Not unlike the standards governing human medicine, the  
702 standards of veterinary practice, which all licenses are  
703 conditioned upon, include a fundamental basis for all  
704 services called the veterinarian/client patient relationship.  
705 This requires that a veterinarian have adequate knowledge of  
706 the patient before administering or prescribing drugs for the  
707 animal. Such adequate knowledge requires the veterinarian to  
708 take a full patient history, conduct an examination, make a  
709 diagnosis, develop a therapeutic plan, prescribe medications  
710 strictly for the purpose of restoring or protecting health,  
711 and reexamine that patient to determine the success or

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712 failure of the treatments. The veterinarian must also keep  
713 comprehensive records documenting these professional  
714 services. In other words, this legislation requires that  
715 there be a therapeutic purpose behind the administration of  
716 any drug and prohibits the use of drugs for purposes of  
717 promoting competition or profit.

718 Racehorse is not a diagnosis. And a veterinarian must  
719 meet a higher standard of care and practice before  
720 administering medication.

721 This legislation provides the essential key to returning  
722 the absolute authority over the regulation of the practice of  
723 veterinary medicine squarely back with each state veterinary  
724 board by banning all drugs during racing while reinforcing  
725 the vet board's mandate of the veterinarian/client patient  
726 relationship. In doing so, the current illusion that racing  
727 commissioners have that racing commissioners have any say  
728 whatsoever regarding which drugs a veterinarian may  
729 administer to a patient will be removed, along with any  
730 confusion about which regulatory authority is in charge.

731 The state veterinary boards will reemerge as the  
732 effective and sole authorities and regulators over the

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733 practice of veterinary medicine in each state. This  
734 legislation not only provides a dream solution to the ethical  
735 and safety problems plaguing the United States horseracing  
736 industry, but its implementation is absolutely essential if  
737 the industry is to survive and regain its position as an  
738 international leader in the sport.

739 [The prepared statement of Dr. Lyons follows:]

740 \*\*\*\*\* INSERT 5 \*\*\*\*\*

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|

741           Mr. {Terry.} Thank you. Mr. Pacelle, you are now  
742 recognized for your 5 minutes.



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|

743 ^STATEMENT OF WAYNE PACELLE

744 } Mr. {Pacelle.} Thank you, Chairman Terry. Thank you  
745 very much for addressing this issue. I am glad to be on this  
746 esteemed panel. I am representing the Humane Society of the  
747 United States, and we are an enthusiastic supporter of this  
748 legislation.

749 You know, I think what we are talking about here is  
750 appreciation for this sport, appreciation for entertainment,  
751 but balancing it with the interest and the needs of the  
752 athletes involved; in this case, both animal and human.

753 Today's New York Times--if I can just direct you to for  
754 a moment--a story about boxing. Reconciling a sport's  
755 violent appeal as a fighter lies in a coma. So one fighter  
756 is in a coma, and we have got a front-page New York Time's  
757 story about it, very appropriately so. Attempts to limit the  
758 serious injury and death of fighters should be an important  
759 concern of our society.

760 Last week, Nicholas Mevoli, participating in deep-  
761 unassisted diving, died. He was trying to break the world

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762 record. If you remember, he went to 236 feet under the water  
763 without any breathing assistance. And he died. Now, there  
764 is a robust debate about what some of the rules should be  
765 about that.

766 Football, we have had an incredible discussion in  
767 society over the last 3 or 4 years about traumatic brain  
768 injuries as a consequence of professional football injuries  
769 and contacts. As the son of a football coach, I pay very  
770 close attention to that issue. These football players aren't  
771 dying on the field, they are dying some years later as a  
772 consequence of this degenerative brain disorder.

773 We heard from the official with the anti-doping  
774 association about the scandals in cycling, Olympic track and  
775 field and baseball. These issues have been headlines in our  
776 Nation.

777 In horseracing, we have two problems. We have  
778 catastrophic injuries for these horses on the track, and we  
779 have widespread doping of the equine athletes. I want to say  
780 very clearly, the Humane Society of the United States does  
781 not oppose horseracing. We never have. We have been paying  
782 attention to the industry for decades. All of us are here

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783 because I think we want to see a balance between success for  
784 the industry and proper treatment of the animals and concern  
785 for the human participants, the jockeys, in this enterprise.

786 But what we have seen over decades is an absence of  
787 adequate self-regulation, and we are presented with the  
788 question, should we do more? Should the Congress do more on  
789 this issue? And I want to say that if we are outraged about-  
790 -or deeply saddened by the deaths of these human athletes in  
791 other sports, we should also be outraged and saddened by the  
792 deaths of 24 horses every week on American racetracks. Every  
793 week. Not once in a while. Every week. We have had drug  
794 scandal after drug scandal. You saw Dr. Rick Arthur on the  
795 video that was played during Congressman Pitts' statement.  
796 He said ``It is hard to justify how many horses we go  
797 through.'' In humans, you never see someone snap their legs  
798 off during running in the Olympics. But you see it in  
799 horseracing.

800 The failure for this industry to adopt comprehensive,  
801 consistent national standards is a serious problem that has  
802 been in the works, decade after decade. This Congress has an  
803 opportunity now with the massing of evidence to do something

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804 constructive that is not going to be against the industry's  
805 interest. It is going to be in the interest of the industry.  
806 Any sport that is taking shortcuts, that is allowing routine  
807 doping, and that sees this level of injury and death in the  
808 animal athletes has a major public relations problem. The  
809 sport is in decline in the United States. Other horseracing  
810 jurisdictions around the world are in their ascendancy. And  
811 they are running horses on hay, oats and water. And when an  
812 animal is injured or ill, you address it with a palliative  
813 and allow the animal to rest and to heal, not to get on the  
814 track and to be running at 40 miles an hour, or 45 miles an  
815 hour, often on unforgiving surfaces, often before they are  
816 old enough to sustain these injuries and this beating of the-  
817 -of their hooves on the track.

818 I have got a lot of incidents in my testimony, but I  
819 want to just wrap up, Chairman Terry, by saying just a couple  
820 of quick things. This Congress has addressed issues like  
821 animal fighting at the federal level. You have done so in  
822 spite of the fact that the states have prohibitions on dog  
823 fighting and cock fighting because there are circumstances  
824 and cases where we need federal intervention, the nature of

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825 the animal fighting enterprise is national or international.  
826 You also just conducted a hearing on the soring of Tennessee  
827 walking horses. A federal law was adopted 40 years ago  
828 because of the intentional injuring of horses by physical and  
829 chemical means to enhance performance of these horses. This  
830 Congress has jurisdiction on this issue. This is a multi-  
831 billion dollar industry. Horses move nationally. Hundreds  
832 of millions of dollars wagered on these athletes. The name  
833 of this bill--Congressman Pitts' bill is the Horse Racing  
834 Integrity and Safety Act. That is what needs to be restored.  
835 Thank you very much.

836 [The prepared statement of Mr. Pacelle follows:]

837 \*\*\*\*\* INSERT 6 \*\*\*\*\*

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|

838           Mr. {Terry.} Thank you. And that--now, we will proceed  
839 to the question and answers where we get to ask questions,  
840 and you get to answer them. We also have an issue with any  
841 minute, the buzzer is going to go off for votes. So we will  
842 see how far we can get with our questions. So, Mr. Overton,  
843 my question is for you. Follow-up on what Mr. Pacelle just  
844 said. There are 38 separate regulatory entities. I am a  
845 Tenth Amendment guy. I like to have states have their powers  
846 and their rights. So if we can have 50 states with  
847 regulatory powers, what is the failure of 38--is there a  
848 failure of these 38 racing commissions, and should there be a  
849 federal law?

850           Mr. {Overton.} And--

851           Mr. {Terry.} Yeah, the microphone?

852           Mr. {Overton.} Mr. Chairman and members of the  
853 subcommittee, definitely there is a problem in all 38, if not  
854 all 50, jurisdictions. It is not intent. It is by design.  
855 There is no enforceability between states of having  
856 regulations that are uniform. We do need uniform. And I  
857 would just like to point out that doing it with USADA, we are

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858 not talking about a government takeover of their independent  
859 group. And they have demonstrated that they would have the  
860 enforceability. And one of the issues with that  
861 enforceability today, we have seen serious violations of  
862 trainers throughout the years. The way they would handle it-  
863 -

864 Mr. {Terry.} When was the last time there was a trainer  
865 suspended or kicked off because--kicked out of the business  
866 because of a violation?

867 Mr. {Overton.} That is--

868 Mr. {Terry.} Do you know?

869 Mr. {Overton.} There have been quite a few. There are  
870 some that have stays right now in the court system.

871 Mr. {Terry.} Okay. The other question is, do the  
872 racing jurisdictions share information so that they have  
873 information on one trainer or barn that is shared with  
874 another as they go to the next racetrack?

875 Mr. {Overton.} Only if there is an investigation.

876 Mr. {Terry.} Okay.

877 Mr. {Overton.} We do share with RCI any rulings that  
878 come out.

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879           Mr. {Terry.}   Thank you.

880           Mr. {Overton.}   Thank you.

881           Mr. {Terry.}   Mr. Tygart, since you are here, let us ask  
882 questions. You mentioned in the world, anti-doping code has  
883 been revised a number of times to keep up with the drugs and  
884 the appropriate testing for them. So how has the code been  
885 modified over time, and are there new drugs and tricks of the  
886 trade that need to be addressed, both in your jurisdiction  
887 and as you would think for the horseracing industry? Because  
888 one of the issues here--and I have an article here from--  
889 buried somewhere in my paperwork here--about a compounding  
890 entity that specializes in changing the drug just enough that  
891 it can't be detected. So how do you keep up with those  
892 things?

893           Mr. {Tygart.}   Thanks for your question, Mr. Chairman.  
894 The code itself, which is the umbrella uniform policy has  
895 been changed now three times. The third version was just  
896 approved down in South Africa where I came from you mentioned  
897 earlier. The list of prohibited substance and methods is  
898 published every year. There is a democratic process, an  
899 expert group that provides information on what substances



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900 meet the criteria, whether it is performance enhancing or  
901 not, whether it is against--you know, violates the health and  
902 safety of athletes, and whether it violates the spirit of  
903 sport and any of those--

904         Mr. {Terry.} And is that wholly applicable to the  
905 horseracing industry?

906         Mr. {Tygart.} It very well could be. I mean, I think  
907 part of the process that this legislation would allow for  
908 would be that consultation process to come up with exactly  
909 what that criteria would be, and then have a democratic  
910 process every year that would then publish in advance. So  
911 our list is published every October, going into effect that  
912 following year. Listen, I think cheaters who want to win and  
913 there is a big prize at the end to win, will go to great  
914 lengths to ensure that they are not caught by the testing  
915 system, even the best testing systems that may be in place.  
916 But what you have got here are, you know, labs where 2 of the  
917 16 don't meet even the industry's--I am sorry, 2 of the 16  
918 are the only ones that meet the industry's standards for  
919 uniformity. So the--

920         Mr. {Terry.} Two out of sixteen.

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921           Mr. {Tygart.} Two out of sixteen, 12.5 percent. So you  
922 have got 87 percent that don't meet the RMTTC's own ISO  
923 accreditation and laboratory operating procedures.

924           Mr. {Terry.} Well, let me stop you there, because I  
925 only have 30 some seconds. Mr. Hanrahan, you mentioned that  
926 there is only a small percentage that fail. But if it is  
927 true that they are not even testing for the right things, is  
928 that a reliable number for us?

929           Mr. {Hanrahan.} Eighty-one--

930           Mr. {Terry.} Percent of failures?

931           Mr. {Hanrahan.} Mr. Chairman, they are testing for  
932 known substances. And I would point out on the issue for  
933 example of dermorphin, which was an unknown substance, that--  
934 there was some human intelligence. There was some  
935 suspicions, and samples were sent to the lab and the lab  
936 developed the test to identify dermorphin. So the labs do  
937 work ahead to try and identify substances.

938           Mr. {Terry.} All right. Thank you. Mr. McNerney, as  
939 Acting Ranking Member, you are recognized for 5 minutes.

940           Mr. {McNerney.} I would like to ask the Chair to  
941 recognize Mr. Yarmuth from the great State of Kentucky, home

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942 of the Derby.

943 Mr. {Terry.} Absolutely. With the unanimous consent,  
944 so ordered.

945 Mr. {Yarmuth.} Thank you, Mr. Chairman, and thanks to  
946 my colleague for yielding. As Mr. McNerney said, I represent  
947 the Kentucky Derby and Churchill Downs. And certainly  
948 thoroughbred breeding and horseracing is a signature industry  
949 of Kentucky. So I also represent owners, trainers, jockeys,  
950 grooms and of course a lot of track workers and of course a  
951 lot of horses as well. They don't get to vote, usually. So-  
952 -and I applaud all of you for your concern about protecting  
953 the health and safety of the horses and the riders, and also  
954 the integrity of the sport. I appreciate that very much, and  
955 I share all of your concerns.

956 I do have a couple of specific concerns about this  
957 particular legislation. And, Mr. Tygart, I want to start  
958 with you. It has already been established that your  
959 background, it is not in horseracing. Your organization is  
960 not in horseracing. So I am a little bit concerned about the  
961 accountability that USADA might have if empowered under this  
962 legislation. To whom is USADA accountable now?

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963           Mr. {Tygart.} Well, we currently have federal  
964 appropriation. So we can, you know, obviously be called up  
965 and testifying about any issues. Our legal process goes  
966 through a panel of independent arbitrators. So, ultimately,  
967 any decisions on a case, whether someone committed a doping  
968 violation or not, athlete or other person, trainer, et  
969 cetera, would ultimately go to independent arbitrators.  
970 Obviously, that would be public--written decision publicly  
971 available. And, of course, you know, the--we are not immune  
972 from media scrutiny at any return.

973           Mr. {Yarmuth.} Right. And obviously, I am not  
974 questioning your capabilities or integrity. I am just trying  
975 to establish this. Because a lot of times in many cases in  
976 the commercial world, we have empowered independent agencies  
977 to set rules and regulations, and they are totally  
978 unaccountable. And that is a problem. So under this  
979 legislation as you understand it, if you were given this  
980 authority, if there were questions about regulations you  
981 handed down, where would be--what would be the process  
982 through which--whether it was owners, vets, tracks, whoever  
983 would appeal those, or somebody else to review the

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984 regulation?

985           Mr. {Tygart.} Yeah. What we would envision is not  
986 unlike the process I described in my testimony with the World  
987 Anti-Doping Agency where you have got some input at the  
988 governance level of people that are free of conflict of  
989 interest similar to the way our board is setup today. Our--I  
990 think we would be open to having whether it is a wholly un-  
991 sub or additional board members added that have the type of  
992 experience that you heard in some of the testimony on that.  
993 They would obviously have to be free of any conflicts to  
994 ensure the independence. That is how we currently are  
995 operating. I think whether the legislation adds a piece of  
996 oversight or whether the agreements that the legislation  
997 calls for between us and the major stakeholders of the  
998 industry. And those agreements certainly though could be  
999 spelled out. Some accountabilities to ensure proper  
1000 financial management, proper governance, those types of  
1001 things. Again, not on a case by case basis. You don't make  
1002 policy on let us say a--you know, a single high profile case--  
1003 -during the middle of that case. You would want the process  
1004 that has been agreed to prior to that particular case coming

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1005 up to resolve itself. And then if there is any effort to  
1006 revise--amend like we did with the WADA code, then you have  
1007 that process built in.

1008 Mr. {Yarmuth.} All right. Thank you. One of the  
1009 provisions of the bill is that there is a ban on any  
1010 medication on race day. And I know Mr. Hanrahan, you have  
1011 made the case that there may be a justification, particularly  
1012 with regard to Lasix to administer on race day. Could you  
1013 kind of in the minute and 14 seconds we have left talk about  
1014 that and why that may be problematic to put in the  
1015 legislation? It may be counterproductive?

1016 Mr. {Hanrahan.} As I alluded to, Lasix is in fact the  
1017 only race day medication that is allowed, with a couple of  
1018 minor exceptions for adjuncts. As the RCI's model rule  
1019 exists now, and as I am sure you are aware, Kentucky is one  
1020 of the states that follows that model rule that allows Lasix,  
1021 but is only administered by state veterinarian or regular  
1022 veterinarians. It is not admitted--not issued or  
1023 administered by a private veterinarian. The dosage is  
1024 limited. The time that it is given is limited. So it has  
1025 been a very effective model rule. And that is just

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1026 symptomatic of how the model rule process works in terms of  
1027 developing an industry consensus, whether it is on Lasix,  
1028 whether it is banning steroids, et cetera.

1029       Mr. {Yarmuth.} And in 10 seconds, has that been  
1030 successful in terms of facilitating--not necessarily  
1031 enhancing performance on the horses, but protecting the horse  
1032 on race day?

1033       Mr. {Hanrahan.} I would say yes, sir. It has been very  
1034 perfective in Kentucky and those states that have it. There  
1035 was a little roughness getting it in place. But it has been  
1036 very effective. And Lasix is a very effective drug in  
1037 preventing bleeding in horses, and that protects the horse  
1038 and in turn protects the jockeys.

1039       Mr. {Yarmuth.} Great. Thank you, sir.

1040       Mr. {Terry.} Thank you. And now, there is about 5  
1041 minutes left with how many people not voting yet?

1042       {Voice.} Three hundred.

1043       Mr. {Terry.} Three hundred and seventy-five. So we  
1044 probably got another 5 minutes. So, gentlelady from  
1045 Tennessee, Vice Chairman is recognized.

1046       Mrs. {Blackburn.} Thank you, Mr. Chairman. And I will

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1047 do my best to not take all of my time and yield back so that  
1048 others may get in--

1049 Mr. {Terry.} Why don't you yield it to Joe?

1050 Mrs. {Blackburn.} And to the queue. Okay. If we are  
1051 not finished, I will yield. So--and I will yield it to Joe.  
1052 I think we can all agree, we are all interested in the  
1053 welfare of the animals. We are interested in the integrity  
1054 of the sports, whether it is horseracing or walking horses or  
1055 the steeple chase that we enjoy in Tennessee, or when I was a  
1056 kid and in 4H Club, the quarter horses in the barrel racing  
1057 and all of that that my brother did. It is an important part  
1058 of life for those of us who have grown up on farms or who  
1059 live on farms or have that in our district. And so, Mr.  
1060 Pacelle, I want to come to you for just a moment and ask you  
1061 a little bit about your formal relationships, in relation  
1062 primarily to the hearing we had last week. And I would just  
1063 like to know, do you all have a formal relationship with one  
1064 of our witnesses last week, Mr. Irby?

1065 Mr. {Pacelle.} A formal relationship? No, we do not.

1066 Mrs. {Blackburn.} Have you ever provided compensation  
1067 to him to be in here in D.C., or provided expenses or travel



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1068 for him to come into D.C. to provide testimony or to lobby us  
1069 on the bill?

1070 Mr. {Pacelle.} No, not to my knowledge.

1071 Mrs. {Blackburn.} Not to your knowledge. Could you  
1072 confirm that and put it in writing and submit it to us?

1073 Mr. {Pacelle.} Sure. I would be happy to call your  
1074 office and tell you. Sure.

1075 Mrs. {Blackburn.} Okay. I would like it in writing.  
1076 And same with Ms. Benefield, to know what her formal  
1077 relationship is with you all.

1078 Mr. {Pacelle.} Sure.

1079 Mrs. {Blackburn.} That would be wonderful. I  
1080 appreciate that. And, Mr. Pitts, I yield the balance of my  
1081 time to you.

1082 Mr. {Pitts.} Thank you.

1083 Mr. {Terry.} Joe, can I interrupt real quick?

1084 Mr. {Pitts.} Yes, sir.

1085 Mr. {Terry.} We will also give you a couple minutes.  
1086 And everyone else has said they are going to submit their  
1087 questions for the record. So at the time Joe finishes his  
1088 question, we will dismiss.

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1089           Mr. {Pitts.} Thank you, Mr. Chairman. For Mr. Hanrahan  
1090 and Dr. Lyons, in my opening statement, I referred to a horse  
1091 named Coronado Heights who happened to have been trained by  
1092 the nation's leading trainer by money, Todd Pletcher, and  
1093 received 17 injections 1 week before he broke down. Mr.  
1094 Hanrahan and Dr. Lyons, how is that putting the horse first?  
1095 Please explain what could possibly be the benefit. Is this  
1096 what is necessary to get a horse to the races, and how could  
1097 this be justified especially at the top of the sport, Mr.  
1098 Hanrahan?

1099           Mr. {Hanrahan.} Yes, sir. I am not a veterinarian, but  
1100 I would suggest to you that veterinarians look at those  
1101 horses. Depending on the medical condition of that horse,  
1102 whether the horse had a cold, whether the horse had some  
1103 lameness issue, et cetera, would determine how that horse was  
1104 treated. I would also like to point out I believe that horse  
1105 was 1 of the horses included in the aqueduct report for the  
1106 Aqueduct Commission that was convened in light of a number of  
1107 breakdowns. And with your permission, I would like to quote  
1108 something out of that report. And this is from the executive  
1109 summary of that report.

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1110 Mr. {Pitts.} Dr. Lyons--

1111 Mr. {Hanrahan.} And it says on page 4, pre-race

1112 medication administered to the fatally injured horses was

1113 similar to that administered to the uninjured horses that

1114 raced. And one other thing is that on--

1115 Mr. {Pitts.} I only have 2 minutes left. You can

1116 submit that for the record? Dr. Lyons, would you comment?

1117 How is this putting the horse first? Explain the benefit, et

1118 cetera.

1119 Dr. {Lyons.} Thank you, Congressman Pitts, for the

1120 question. It is not putting the horse first. It is putting

1121 the interest of getting that horse over to the races over and

1122 above the horse's safety, its well-being. And I looked at

1123 that horse's records. And I am a veterinarian. And I can

1124 tell you that there was nothing therapeutic about the

1125 approach or the drugs that were used in that horse. In my

1126 opinion, that horse broke down as a direct result of the

1127 injury masking drugs that were stacked for weeks in advance

1128 before that horse raced and lost its life on the track. And

1129 I also am aware--and I am quite sure it was with this case

1130 that the owner of that horse had instructed that she did not

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1131 want this horse to be medicated so that the injuries would be  
1132 masked. And yet, the veterinarian did not abide by her  
1133 directive. So this is how this system has broken down so  
1134 that veterinarians see themselves as having the role of  
1135 accommodating racing rather than the welfare of the patient.  
1136 So that did not take care of that horse.

1137         Mr. {Pitts.} Thank you. Mr. Hanrahan, the Blood Horse  
1138 Magazine announced your being hired as the national HBPA CEO  
1139 on 11/29/11. At the time, the article indicated that you  
1140 were then a handicapper and occasional tournament player.  
1141 Now, recent survey of horseracing betters performed by Penn,  
1142 Shad, and Berland indicated that 86 percent of the biggest  
1143 betters avoid certain tracks in states because of concerns  
1144 over medication integrity, and 79 percent of horseplayers  
1145 factor in illegal drug use when handicapping races at certain  
1146 track. And these poll numbers are insightful, because they  
1147 basically say betters at all levels, especially at most every  
1148 vested--big betters believe that trainers are cheating and  
1149 using drugs and adjust their betting accordingly. When you  
1150 were actively wagering, did you take into account any of  
1151 these considerations? If not, why not?

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1152 Mr. {Hanrahan.} No, I did not. The--

1153 Mr. {Pitts.} Why--

1154 Mr. {Hanrahan.} The primary thing in handicapping a  
1155 race is how competitive the race will be. You look at the--  
1156 the size of the field, the conditions of the race. And I  
1157 would point out, as I am sure many of you know, for horses  
1158 running on Lasix, that is published in the racing programs.  
1159 Everyone knows that.

1160 Mr. {Pitts.} Well, do you think this presents a  
1161 perception problem? What if Warren Buffet thought Wall  
1162 Street was rigged, quit playing? Isn't this actually driving  
1163 your sport out of business? Five years ago, nearly 15  
1164 billion dollars was bet on races in North America. Today, it  
1165 is down to 10 billion. Sales and purses have slumped as  
1166 well. Additionally, fewer owners, especially foreign, are  
1167 buying the racing horses in America. My time has expired. I  
1168 have several questions for the record, Mr. Chairman, that I  
1169 will submit. And I have two statements for the record from  
1170 Water Hay Oats Alliance and USPA CA that I would like the  
1171 unanimous consent to submit--

1172 Mr. {Terry.} Without objection, so ordered.

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1173 [The information follows:]

1174 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

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1175           Mr. {Pitts.} Thank you, Mr. Chairman.

1176           Mr. {Terry.} Thank you. And now, I will recognize Mr.

1177 McNerney for a short statement.

1178           Mr. {McNerney.} I just want to thank the witnesses for

1179 coming. I have heartfelt statements. I support H.R. 2012,

1180 and I will submit questions for the record.

1181           Mr. {Terry.} So you have heard Mr. McNerney talk about

1182 questions for the record. Each member of this committee and

1183 Joe Pitts has the ability or right to send you questions.

1184 You have an obligation, because you agreed to testify, to

1185 answer those questions in a timely manner which I will define

1186 in 2 weeks. If you can get in around the--your answers to

1187 any questions submitted to you within 2 weeks, we would

1188 greatly appreciate it. And at this time, I want to offer

1189 unanimous consent to put into the record an article entitled

1190 Texas Compounder Draws Industry Scrutiny, a November 20

1191 letter--November 20, 2013, NTRA letter. Hearing no

1192 objections, so ordered.

1193           [The information follows:]

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1194 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*



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1195           Mr. {Terry.} I want to thank you all for your great  
1196 testimony. Sorry we were rushed. We thought were going to  
1197 have about another full half hour to ask questions. But  
1198 sometimes on get-away-days, things tend to move quicker for  
1199 some reason. So thank you very much for your insight and  
1200 sharing your expert opinions with us today. And we are  
1201 adjourned.

1202           [Whereupon, at 11:15 a.m., the Subcommittee was  
1203 adjourned.]